

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES DEPARTMENT OF JUSTICE,



Petitioner

v.

Case No. 18-mc-00056

MICHELLE RICCO JONAS,

Respondent

DECLARATION OF MICHELLE RICCO JONAS

I, Michelle Ricco Jonas, make the following declaration:

1. I presently serve as the Program Manager for the New Hampshire Prescription Drug Monitoring Program (the “PDMP”), which is aimed at advancing the health and well-being of this State’s residents.

2. In that capacity, I am “the person designated by the [B]oard [of Pharmacy] to oversee the implementation and operation of the [PDMP] by [a third party] program vendor.” N.H. Admin. R. Ph. 1502.01(m), (n) [New Hampshire Controlled Drug Prescription Health and Safety Program – Definitions].

3. The PDMP database contains patient identification and prescription information entered by dispensers of schedule II-IV controlled substances for a substantial segment of this State’s residents.¹

¹ Schedule II-IV controlled substances include such medications as

- Xanax, Valium, Ativan, and Librium (each non-narcotic Schedule IV)
- Ritalin and Adderall (both non-narcotic Schedule II)
- Tylenol with Codeine (narcotic Schedule III)
- Demerol, Percocet and Oxycontin (each narcotic Schedule II)
- Ambien, Lunesta and Sonata (each non-narcotic Schedule IV)
- Testosterone (non-narcotic Schedule III)
- Marinol (non-narcotic Schedule III)
- Nembutal (non-narcotic Schedule II)

4. Pursuant to RSA 318-B:34 [PDMP – Confidentiality], patient prescription data within the PDMP database is highly confidential and may not be accessed or disclosed, except as provided in RSA 318-B:35 [Providing Controlled Drug Prescription Health and Safety Information].

5. I have reviewed the “U.S. Department of Justice/Drug Enforcement Administration Subpoena,” which is dated June 11, 2018 and addressed

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PHONE: 6032716980
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6. The Subpoena correctly states

- my name
- my official capacity with the Board of Pharmacy’s PDMP
- the office address of the Board and the PDMP
- the telephone and fax numbers for the PDMP

7. The Subpoena commands that I am “to provide any and all records regarding [redacted], being maintained by the [PDMP] from February 28, 2016 through the present day.”

8. Except in my capacity as Program Manager for the PDMP, I am not in the possession, custody or control of *any* “records … being maintained by the [PDMP].”

9. The Subpoena directs that I undertake an act that I cannot perform *except* (a) in my *official* capacity as PDMP Program Manager, and even then as limited by RSA 318-B:35 (to which the Subpoena does not conform) or (b) in my *individual* capacity via the commission of a Class B felony. *See RSA 318-B:36, VII.*

I declare under penalty of perjury that the foregoing is true and correct.

Date: August 23, 2018

/s/ Michelle Ricco Jonas
Michelle Ricco Jonas